

### **REMARKS**

In view of the foregoing amendments and the following remarks, favorable reconsideration of the outstanding office action is respectfully requested. Claims 1-26 are cancelled, and new claims 27-49 are submitted.

#### **1. § 112 Rejection**

The Patent Office rejects claims 21-24 under 35 U.S.C. § 112, first paragraph, and alleges that the present specification did not enable a person of skill in the art to make an article with PVC as an innermost layer and PU as an outer layer. As a person skilled in the art would understand, in the process of making dipped goods, before one applies any modifying surface chemistries to a primary substrate body, one must first create the substrate material. When the dipped good is removed from its mold and inverted, the innermost layer becomes the outer surface of the fabricated article, and what was the outer layer becomes the inner surface. In view of the new claims pending, Applicant believes that the basis of the Patent Office's rejections is remedied and the claims now are allowable; and hence, requests the Office to withdraw the rejection.

#### **2. § 102 Rejection**

The Patent Office rejects claims 9, 15, 18, and 21 under 35 U.S.C. § 102(b), as being anticipated by U.S. Patent No. 5,881,386, (Horwege '386). The Patent Office alleges that the Horwege '386 patent teaches the claimed article. The Patent Office further maintains the prior rejection of claims 9, 12, 15, and 18 under 35 U.S.C. § 102(b), as being anticipated by U.S. Patent No. 5,224,221, (Richardson '221).

In view of the new claims pending, Applicant submits that the present rejection is overcome. To be anticipatory under 35 U.S.C. § 102, a patent reference must "describe" every element recited in the claims at hand. Both the Horwege '386 and Richardson '221 patents neither teach nor suggest a combination of first and second polymer layers, in which the second layer is formed directly over the first layer, that *produces an observable visual (colored) contrast relative to each other, detectable without breach of either layer, that indicates to an observer the presence of more than one layer of protection, or distinguishes either a line or zone of demarcation within a film-based material*, as claimed.

Although materials may seem to be similar, in as much as the Horwege '386 reference discloses a flexible bilayer membrane formed of a polyvinyl chloride (PVC) first film layer and a

polyester polyurethane second film layer adhered to each other, the reference does not anticipate because it does not disclose two layers that work in combination to produce an observable contrast with respect to each other. The Richardson '221 reference teaches a glove with a mechanism that shows either tampering or damage, which is directed toward a function different from Applicant's features. The Richardson's glove has an inner and an outer layer partially sealed to each other to create a zone or pocket between the two layer. Only after a breach or rupture in the outer layer damages the glove occurs and allows a fluid (i.e., gaseous air or liquid) to enter into the interlayer pocket, can one perceive a change in color of the glove in the area of breach. In contrast, as claimed, Applicant's invention is designed to allow a user to readily perceive or detect the presence of multiple layers of protection without rupture, through the use of contrasting colors relative of the layers, before or at donning of the article. A breach is not required to show the contrast. Further, the absence of a gap or pocket between Applicant's two layers makes Applicant's invention significantly distinguishable from Richardson's glove.

Since each of the references do not disclose each and every element of the presently pending claims, they can not be anticipatory. In view of the foregoing amendments and remarks, Applicant respectfully requests that the rejection be withdrawn.

### **3. § 103 Rejection**

The Patent Office rejects claims 16, 17, 19 and 20, under 35 U.S.C. § 103(a), as being unpatentable over U.S. Patent No. 5,224,221, (Richardson '221), and claims 21-24 in view of U.S. Patent No. 5,881,386, (Horwege '386).

The combination of Richardson '221 and Horwege '386 does not justify a *prima facie* case of obviousness since all claim limitations are not taught or suggested (MPEP §2143 et seq., § 2143.03). As discussed in the foregoing section, Horwege '386 does not show a color contrast between its two layers, and Richardson '221 requires a breach to infiltrate its interlayer pocket to activate the perception of a color change. The Patent Office has made no showing that one of ordinary skill in the art would be motivated to either look to these references, much less to combine them, since each of them is directed to solving a different kind of problem, and each relates to a different area of the art – one to PVC-based gloves and their manufacture for powder-free donning, and the other for breach indication. Moreover, since Horwege's two layers are adhered to each other without a gap in between, and Richardson's glove requires a gap, the references teach at cross purposes against each other. Hence, a person of ordinary skill in the art would not likely look to combine the two references to derive Applicant's invention as presently claimed. Any suggestion that the Richardson '221 reference as a source of color contrast that is

combinable with Horwege '386 is in effect using Applicant's own invention as demonstration of obviousness. Such reasoning is clearly a demonstration of impermissible hindsight reconstruction.

For the reasons given, Applicant respectfully submits that the requirements for a *prima facie* case of obviousness has not been met, and requests that the Patent Office withdraw the rejection.

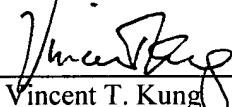
#### 4. Conclusion

For the foregoing reasons, Applicant respectfully submits that all of the presently presented claims are in condition for allowance. Applicant believes that no extension of time is required to make the present Response is timely, but should Applicant be in error, Applicant respectfully requests the Office grant such time pursuant to 37 C.F.R. 1.136(a) as necessary to make this response timely, and hereby authorizes the Office to charge any necessary fee or surcharge with respect to time extension to the Kimberly-Clark Worldwide, Inc. deposit account number 11-0875. Please direct any questions or comments to Vincent T. Kung at: tel. 770-587-8606.

Respectfully submitted,

Maris Vistins.

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Kimberly-Clark Corporation

#### CERTIFICATE OF MAILING

I, Laura L. Rubino, hereby certify that on February 4, 2004 this document is being deposited with the United States Postal Service as first-class mail, postage prepaid, in an envelope addressed to: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

By:

  
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